

# **Exhibit H**

**CHARLES J. DIVEN, JR., ESQ.**  
ATTORNEY AT LAW

July 13th, 2006

Chagaris Law Firm, PA.  
P.O. Box 1408  
Davidson, NC 28036

*By Fax 704-894-9673*

Re: **KA v Hawthorne**  
**Our File No: 05-0000**

Dear Mr. Chagaris:

I am writing in response to the Answer that you forwarded in the above referenced action. I am pleased to see that the Defendants did not raise a res judicata defense based on the prior action. I believe Defendants' have now formerly waived such a defense by asserting a counterclaim in this action. Obviously, I am assuming a similarity between New York procedural law and that of North Carolina.

I also believe the issues raised in the Answer are predominately typographic or administrative in nature and are readily cured by a supplemental pleading. Since Issue has been joined, must we bring a motion to amend the complaint or can we file one as of right? The use of "Ltd." verses the use of "Inc." as raised in his Answer is one such example. The fact that his own attachments confirm that the Plaintiff validly existed at the time complained of, is confirmation that the Plaintiff has standing to bring this action once the revocation is cured. This, I believe, is typical of most of the defects that he has raised in his Answer. I will confer with the client and mark up my opinion of these matters on the Answer and forward same to your office.

Looking at my notes, I recall that this action was filed in May of 2002. Can we move to have both the Counterclaim and Answer stricken on the grounds that they were not timely plead?

In order to complete my review of the Answer, I will need the complaint as a review of my records indicate that I only have notice of the action, not the complaint, from you. Kindly forward a copy of same to this office by fax and a hard copy by mail

Thank you.

Sincerely,

Charles J. Diven, Jr., Esq.

CJD/cl

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DATE: 7.14.06  
TO: CHRIS CHAGARIS  
FROM: CJ DIVEN  
FAX #: 704-894-9673  
RE: KA ANSWER

cc BRUCE ADLER

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